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United States
Department of
Agriculture

Office of the
Assistant Secretary
For Administration

Office of
Procurement and
Property
Management

Environmental
Management
Division
Room 309
740 Simms Street
Golden, CO 80401

Ms. Ellen Treimel
Federal Facilities Restoration and Reuse Office
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Ave.
Washington, DC 20460

Dear Ellen:

Thank you for the opportunity to review and provide comments on the Federal Agency Hazardous Waste Compliance Docket Update #27. In this update, EPA is proposing to add two USDA sites to the Federal Agency Hazardous Waste Compliance Docket (the "Docket"). These sites are the Nebraska National Forest #2 site in Nebraska and the Catron County Shooting Range in New Mexico. Our comments on Docket Update #27 are as follows:

Nebraska National Forest #2: It is not clear why EPA would be adding the Nebraska National Forest #2 site to the Docket in Update #27. This site is already on the Docket based on our review of Federal Register notices. The Nebraska National Forest Site was added to the Docket in update #1, November 16, 1988. In update #18, December 15, 2003, the site was split into the Nebraska National Forest #1 and #2 sites. Also, in Update #18, the Nebraska National Forest Site #2 site was given no further action status. Both the Nebraska National Forest #1 and #2 sites have been given no further action status and archived in CERCLIS.

Attachment 1 provides a more detailed summary of our record review concerning the Nebraska National Forest Sites and the Bessey Nursery. There is substantial confusion in the records for all three of these sites with overlapping site aliases. Additionally, the aliases, "Bessey Drum Site", "Bessey Nursery", and "Nebraska National Forest" were all variously used to refer to the Docket's Nebraska National Forest Sites #1 and #2 throughout the records. Staff-level follow-up with EPA Region 7 has not led to any clarification (specific location, indication of release of hazardous substances, reasons for listing on the Docket) that would allow the USDA Forest Service to take appropriate action for these listings. Further, the Forest Service has not yet received a response from EPA Region 7 to a June 28, 2013 letter directed to Ms. Cecilia Tapia, Director of the Regional Superfund Division, formally seeking clarification and direction concerning these sites.

Adding the Nebraska National Forest #2 site to the Docket in Update #27 will just add to an already confused situation. We respectfully request that you reconsider this proposal.

Catron County Shooting Range: There are two shooting ranges in Catron County, New Mexico that are operated on National Forest System (NFS) land. These ranges

are referred to as the Glenwood Range and the Reserve Range. Both of these ranges are on the Gila National Forest (Forest). Overall, we suggest that EPA reconsider its plan to list the Catron County Shooting Range on the Docket, and we provide additional information and our reasoning in Attachment 2.

If you have any questions or comments, please call me at (303) 275-5547.

Sincerely,

Holly Flinau
Field Coordinator
USDA Environmental Management Division

Attachment 1
Docket History of Nebraska National Forests #1 and #2 and Bessey Nursery

The Nebraska National Forest Site was added to the Docket in update #1, November 16, 1988.

In update #18, December 15, 2003, EPA corrected/changed the name of the Site by splitting Nebraska National Forest into two sites: i.) Nebraska National Forest Site #1, State Rt. 2 W, Halsey, NE, ("NE NF#1") and ii.) Nebraska National Forest Site #2, 5.5 Miles S of Hwy 2, Halsey, NE ("NE NF#2"). The reason code given for the change was: One entry being split into two/Federal agency responsibility being split. Also in update #18, NE NF #2 was assigned No Further Remedial Action Planned.

Bessey Nursery, Spur 86B [PO Box 38], Halsey, NE 69142, was first added to the Docket in update #10, June 27, 1997.

For NE NF#1, CERCLIS indicates that Preliminary Assessments were completed on 6/24/1982 and 3/30/1983 and Site Inspections were completed on 8/12/1982 and 3/30/1983. The Site was assigned No Further Action status (archived) on 4/6/2007. For NE NF#2, CERCLIS indicates that a Preliminary Assessment was completed on 1/13/1987 and a Site Inspection was completed on 10/2/1987. The Site was assigned No Further Action status (archived) on 10/2/1987.

Attachment 2

USDA Concerns about Catron County Shooting Range Docket Listing

We believe that a shooting range in Catron County may have been picked up for consideration for Docket Update #27 due to recent work performed at one of them by the County. The County or its contractor appears to have provided EPA with a manifest under Section 3010 of the Resource Conservation Recovery Act (RCRA).

You mentioned in your notification of Docket Update #27 that EPA's goal is to ensure that Docket information is as accurate as possible. Here are a few initial points for consideration:

- The proposed listing appears to identify the subject site as the "Catron County Shooting Range." We are aware of two shooting ranges within the County at separate locations.
- The proposed listing appears to have been made on the basis of samples analyzed by the County's contractor. In our review of the County's information we found that the material removed from the shooting range could have been classified as solid waste rather than hazardous waste. As a result, we believe that the material removed from the site does not form a legitimate basis for listing on the Docket.

In addition to these points, the sole basis for the proposed addition to the Docket appears to be the County's one-time status as a Large Quantity Generator (LQG) at one of the ranges. While we understand that, technically speaking, this status may allow EPA to add a certain site to the Docket, we would encourage a more refined approach to EPA's evaluation of the information that it receives. Accordingly, you may want to be aware of the current status of the shooting ranges. In the past, these two shooting ranges were managed under two separate Special Use Permits (SUPs) held by Catron County. The SUPs expired on December 31, 2012. The County has submitted a request for a [single] new permit to continue operations at these two ranges.

The Forest is working with the County on a new permit to cover the ranges. The permits would include environmental protection requirements that are now standard for such operations on NFS land. In order to be approved for a new permit, the County must submit:

- A Baseline Site Condition Assessment. This assessment must be completed to establish a baseline condition prior to issuance of a special use permit for target ranges. For this type of evaluation, the Forest Service sometimes uses its own guidance for conducting a site inspection at EM-2160-2, *Forest Service Guide to Land Transactions*, pp. 25-29 and worksheet 5. Here, the County has already submitted Sampling and Analysis Reports for each shooting range. We have concluded that the Sampling and Analysis Reports meet the Forest Service's requirement for a Baseline Site Condition Assessment.
- An Environmental Stewardship Plan (ESP). The Forest Service Handbook requires this type of plan before the agency may proceed with considering a new authorization for an existing target range. In the normal course, the County would submit the ESP to the Forest Service's Regional Environmental Engineer for review. The Environmental Engineer would evaluate the ESP against EPA's *Best Management Practices for Lead at Outdoor Shooting Ranges* (the *BMP*), and determine whether the ESP would protect the environment. Alternatively, the County has the option of submitting the ESP to EPA. Under this approach, the County would seek an EPA certificate of recognition indicating that the proposed ESP is consistent with EPA's *BMP*. The County would then certify to the Forest Service that there are no changes or would identify any changes made in response to EPA's review.

- An Operation Plan and a Safety Plan. These Plans are required in accordance with the Forest Service Handbook (FSH). (Sections 71.7 and 71.8 of FSH 2709.14.)

Currently, the Glenwood and Reserve Shooting Ranges are active operations on NFS land and are in the process of being re-permitted. In order to continue into the future, the operations will need to be consistent with EPA's own *BMP*. The operator will be the County government, not an entity that is likely to disappear through a bankruptcy or dissolution. For its own role, the Forest Service is balancing the interests of recreational shooting and environmental stewardship on National Forests. We believe that EPA should allow this framework to regulate the operations at the two ranges, rather than redirecting the sites for evaluation for National Priorities Listing under 42 USC § 9620(d)(1)(B). Again, we ask that EPA reconsider its plans to add the Catron County Shooting Range to the Docket.